

(2010) 07 P&H CK 0248
In the Punjab And Haryana At Chandigarh

Sumitter Singh and Anju Mehta	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 27-07-2010

Acts Referred:

Citation : (2010) 07 P&H CK 0248

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Judgement

Kanwaljit Singh Ahluwalia, J.—By this common judgment Civil Writ Petition No. 2012 of 1994 preferred by Sumitter Singh and Civil Writ Petition No. 4270 of 1994 preferred by Ms. Anju Mehta can be decided together, as the questions of law and the facts are similar. For facility of reference, this Court shall advert to the facts of Civil Writ Petition No. 2012 of 1994.

2. In the writ petition, preferred by Sumitter Singh, a prayer has been made that action of the Director, Public Instructions (Schools), Punjab - respondent No. 2 (hereinafter to be referred as, "respondent No. 2") whereby he has not accorded approval to the selection and appointment of the petitioner as Social Studies Master be declared as illegal and the order dated 27.4.1993, Annexure P9, passed by the District Education Officer, Hoshiarpur be quashed.

3. H.R. Arya High School, Garhshanker, District Hoshiarpur being privately aided recognized school was imparting education to the students of the area. Two warring factions were claiming to be the Managing Committees of the School. The Managing Committee which came into control of the School was not recognized and approved by respondent No. 2. That Managing Committee issued an advertisement in "Indian Express" and "Rozana Ranjit" in February/March, 1993 for filling up the post of S.S. Master. The Managing Committee which was not approved and recognized passed resolution No. 44, Annexure P5, and resolved to appoint the petitioner as S.S. Master, Anju Mehta petitioner in the second writ petition as Science Mistress. On 26.3.1993 appointment letter was issued to Sumitter Singh. He joined his duties in pursuance of the appointment

letter on 2.4.1993.

4. It is not disputed that the petitioners continued to teach in the School and performed their duties. According to Counsel for the respondent-State Sumitter Singh performed his duties till November, 1999 and Anju Mehta till March, 1999. This fact is disputed by Counsel for the petitioners. It is stated that both the petitioners served till 23.1.2001. Matter of the fact is that in pursuance of the appointment letters, petitioners performed their duties as teacher. Since the approval was not coming forward from respondent No. 2, petitioners were not paid the salary. The stand of the State is that vide letter dated 27.4.1993, Annexure P9, ipso facto approval was declined.

5. Mr. Vijay Pal, Learned Counsel for the petitioners has submitted that the Managing Committee which appointed the petitioners was the real Managing Committee. The Manager and the Head Master worked under the control of this Managing Committee and, therefore, the action of the respondent-State not to approve the Managing Committee is bad in the eyes of law and consequently the appointment and selection of the petitioners should be upheld.

6. Mr. J.S. Puri, Additional Advocate General appearing for the State of Punjab states that date of birth of petitioner Sumitter Singh is 16.3.1951 and the age of superannuation of an employee is 58 years. Therefore, the petitioner cannot be taken back in service. The date of birth of petitioner Anju Mehta is 26.12.1970 and she is about 40 years of age.

7. Admittedly, in the present case, selection of both the petitioners was not approved by respondent No. 2 which was mandatory, as 95% grant-in-aid of the salary was to be paid by the State Government. Therefore, appointment and selection of the petitioners cannot be held valid. However, petitioners have performed their duties and taught the students. For the work done by them, the remuneration must flow to them. It is not the fault of the petitioners that they were allowed to continue in job. Therefore, the salary cannot be denied to them. Mr. Puri has stated that again a disputed question has arisen regarding the period for which the petitioners worked. He states that District Education Officer has been appointed as Correspondent of the School as again there is a dispute regarding the Managing Committee.

8. Be that as it may, both the writ petitions are disposed of with a direction that Correspondent of the School shall determine the period for which both the petitioners had performed their duties. For doing so, the Correspondent shall afford an opportunity of hearing to both the petitioners. The period for which the petitioners had performed their duties shall be decided by the Correspondent within one month from the date of receipt of a certified copy of this order. Thereafter, the salary shall be paid to the petitioners within three months. The petitioners will be at liberty to challenge the order passed by the Correspondent in case the period is not rightly determined. The Managing Committee and the State Government shall decide amongst themselves as to who is liable to pay

salary to the petitioners.